

REMARKS

Claims 1-16 are currently pending in this application. Independent claims 1 and 16 have been amended in this Response. Claim 17 has been added. Support for these amendments and the new claim 17 can be found throughout the specification. In particular, basis for claim 17 can be found in the working examples. No new matter has been added by this amendment.

An Advisory Action was mailed on August 26, 2005. In the Advisory Action, the Examiner indicated that the amendment submitted on August 16, 2005 would be entered and that Applicants' request for reconsideration was considered. However, the Examiner indicated that the request did not place the application in condition for allowance for reason of record. Below, Applicants provide remarks intended to address the Examiner's "reason of record."

By way of the prior Advisory Action mailed on August 1, 2005, Applicants view the "reason of record" as the Examiner's indication that the claims "require the alternative of 'without thawing or proofing.' Examiner alleges that the claims were not defined over the Kueschle reference, which, according to the Examiner, discloses a dough that does not require proofing before baking. As provided by amendment herein, independent claim 1 has now been amended to indicate and clearly define that the inventive composition is a convenient freezer-to-oven biscuit swirl, which requires neither thawing nor proofing prior to baking, nor a combination of both thawing and proofing. Having the ability to go directly from a frozen format to a baked format simply by baking in an oven, without an intermediate step, is highly advantageous and efficient for end-users of the product. Not until Applicants' invention was it found that a luxuriant freezer-to-oven biscuit swirl could achieve comparable volume, look, taste, etc. as that of conventional frozen compositions that typically require either a thaw or a proof step, or both.

As now claimed, the invention is clearly defined as a freezer-to-oven composition, where the biscuit swirl with desirable characteristics is achieved by placing the frozen product directly into an oven for baking. No thaw step, no proof step, and no combination thaw-and-proof is necessary before baking the frozen product – yet the product is so formulated to achieve a baked specific volume of at least 2.2.

§ 103 Rejection

Claims 1-16 are maintained as rejected, allegedly unpatentable due to obviousness under 35 U.S.C. §103 over Kuechle et al. in view of Hahn et al.

Kuechle et al. teaches an underdeveloped frozen dough that requires a thaw step before it can be “scooped” out of its container. The reference clearly teaches and describes how thawing is necessary for the composition of Kueschle in order for the composition to have ‘scoopable’ characteristics. There is no teaching nor suggestion in this reference as to how a biscuit swirl can be made to achieve a baked specific volume of at least 2.2, without a thawing step, a proofing step, or even a thaw and proof step. Furthermore, Kueschle et al. describe a scoopable dough, similar in character to what is generally known to be scoopable: ice cream. It would be a far stretch for those skilled in the art (e.g. dough manufacturing) to rely on a scoopable dough reference to provide a biscuit dough, which is generally known to be “goopy” and a bit sticky due to its underdeveloped format.

Hahn et al., does not resolve the lack of biscuit dough disclosure of Kueschel. Hahn et al describes fillings that are non-emulsion based and moisture containing. Such fillings can be used in layered products that are refrigerated, frozen, or intended to be frozen, where a balance of dough water activity and filling water activity is necessary or advantageous.

Applicants respectfully disagree with the Examiner’s maintained reasons of record, that one skilled in that art, based on the disclosures of Kueschle et al and Hahn et al., would have found Applicants’ invention obvious. Neither reference specifically teaches nor even suggests a biscuit swirl, in a freezer-to-oven format (i.e. no intermediate thaw, proof, or thaw and proof step), that can achieve a BSV of at least about 2.2.

It is respectfully submitted that the references, alone or in combination do not teach or suggest a frozen unproofed, unbaked biscuit swirl comprising a nonlaminated biscuit dough and a smear layer in the swirl configuration as claimed, wherein the biscuit swirl, when baked, has a baked specific volume of at least about 2.2 even without a thawing step, a proofing step or even a thawing-and-proofing step prior to baking. Accordingly, Applicants request that the rejection of claims 1-16 be withdrawn.

Conclusion

It is respectfully submitted that the claims as amended are in condition for allowance. Early favorable notice to that effect is earnestly solicited. In the event that a phone conference between the Examiner and the Applicants’ undersigned attorney would help resolve any remaining issues in the application, the Examiner is invited to contact the attorney at 763.764.2265.

Respectfully submitted,



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